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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 SUMMIT USA, a Washington
10 corporation,

11 Plaintiff,

12 v.

13 PROMENS USA, INC., a Delaware
14 corporation; and BONAR PLASTICS,
15 INC., a Delaware corporation,

16 Defendants

CASE NO. C08-5692BHS

ORDER DENYING
STIPULATED
PROTECTIVE ORDER

17 This matter comes before the Court on the parties' Stipulated Protective Order
18 (Dkt. 12). The Court has considered the pleading filed in support of the proposed order
19 and the remainder of the file and hereby declines to enter the proposed order as an order
20 of the Court for the reasons stated herein.

21 The parties request an expansive protective order for all confidential information
22 that may be disclosed during the discovery phase of this proceeding. The parties have
23 agreed to designate as "confidential" all material "any document, tangible item, or
24 testimony provided by any party which that party contends contains information that is
25 proprietary and is entitled to protection under [Federal Rule of Civil Procedure] 26(c)(7)."
26 *Id.* at 4. The parties further dictate a procedure for the disclosure of designated material.
See id. at 7-8.

27 The Court need not enter the stipulation as an order of the Court because (1) the
28 proposed order contains provisions that are more appropriate for an agreement between


1 the parties instead of an expansive protective order and (2) the attorneys for both parties
2 have executed the agreement. Moreover, the parties have already been ordered to redact
3 dates of birth, social security numbers, and financial accounting information pursuant to
4 the General Order of the court regarding Public Access to Electronic Case Files. If a party
5 chooses to submit confidential documents to the Court, the party may file a motion to seal
6 the material pursuant to Local Rule CR 5(g) and note the motion according to Local Rule
7 CR 7(d)(2). "The law requires, and the motion and the proposed order shall include, a
8 clear statement of the facts justifying a seal and overcoming the strong presumption in
9 favor of public access." Local Rule CR 5(g)(2); *see also Valley Broadcasting Co. v. U.S.*
10 *Dist. Court for Dist. of Nevada*, 798 F.2d 1289 (9th Cir. 1986). If the party that chooses
11 to submit the material is not the party that designated the material "confidential," it may
12 state so in the motion to seal and, in the response, the designating party may articulate
13 facts in support of sealing the submitted material.

14 If a party seeks protection from the public disclosure of any material after
15 unsuccessfully obtaining agreement for such protection from all parties, such party may
16 apply to the Court for relief. However, when disagreements arise, it is important to adhere
17 to the requirement of a "good faith" effort "to resolve the dispute without court action."
18 *See Fed. R. Civ. P. 26 and 37.*

19 Therefore, it is hereby

20 **ORDERED** that the parties' Stipulation Regarding Confidentiality and Agreed
21 Protective Order (Dkt. 12) is **DENIED**.

22 DATED this 31st day of August, 2009.

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25 BENJAMIN H. SETTLE
26 United States District Judge
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